

REMARKS

In the Office Action mailed October 5, 2004, receipt of the formal drawings on April 22, 2002 was acknowledged, the disclosure and claim 33 were objected to, claims 34, 35, 47 and 48 were rejected as being indefinite, and all of the claims were rejected as being either anticipated or unpatentable over a number of patents. A petition for a one-month extension of time is being filed herewith.

In the above amendments, the specification has been amended to correct the errors noted in the Office Action, claim 33 has been amended to insert "and" as suggested in the Office Action, and a number of other minor amendments have been made to claim 33 and some of the other claims.

In view of above amendments and the following remarks, reconsideration of the application is respectfully requested.

Indefiniteness Rejections

The Office Action indicated that claims 34, 35, 47 and 48 were considered indefinite on the basis that the terms "license signature data" and "a first hash value" lacked antecedent basis. This rejection is not understood since the lack of antecedent basis is applicable where the word "said" or "the" precedes a term that has not been previously introduced in the claim, as explained by the following excerpt from Section 2173.05(e) of the M.P.E.P. (underlining added):

A claim is indefinite when it contains words or phrases whose meaning is unclear. The lack of clarity could arise where a claim refers to "said lever" or "the lever," where the claim contains no earlier recitation or limitation of a lever and where it would be unclear as to what element the limitation was making reference. Similarly, if two different levers are recited earlier in the claim, the recitation of "said lever" in the same or subsequent claim would be unclear where it is uncertain which of the two levers was intended. A claim which refers to "said aluminum lever," but recites only "a lever" earlier in the claim, is indefinite because it is uncertain as to the lever to which reference is made. Obviously, however, the failure to provide explicit antecedent basis for terms does not always render a claim indefinite. If the scope of a claim would be reasonably ascertainable by those skilled in the art, then the claim is not indefinite. *Ex parte Porter*, 25 USPQ2d 1144, 1145 (Bd. Pat. App. & Inter. 1992)("controlled stream of fluid" provided reasonable antecedent basis for "the controlled fluid").

In view of the foregoing, it is respectfully submitted that the terms of claims 34 and 47 referenced in the Office Action do not lack antecedent basis. Furthermore, it is respectfully submitted that there is no reason why claims 34 and 47 would be unclear or otherwise indefinite to one of ordinary skill in the art.

Art Rejections

All of the independent claims of the present application, claims 1, 17, 33 and 46, stand rejected under §102(e) as being anticipated by U.S. Patent No. 6,595,856 to Ginsburg, et al.

Claim 1 of the present application contains references to “license data” and to certain actions taken with respect to the license data, as illustrated by the last three paragraphs of claim 1 which are set forth below:

said memory of said monitoring apparatus controller having encrypted license data representing a license parameter and a corresponding license parameter value stored therein,

said monitoring apparatus controller being programmed to determine if said encrypted license data is authentic, and

said monitoring apparatus controller being programmed to determine if a configuration of said gaming system is in compliance with said license parameter value of said license parameter.

The Office Action indicates that column 3, lines 41-65 and column 4, lines 24-28 of the Ginsburg, et al. patent contain disclosure of the claimed “license” recitations. It is respectfully submitted that those excerpts of Ginsburg, et al. do not contain such disclosure.

The Ginsburg, et al. patent relates to authentication of software, not to whether software is licensed. Authentication as disclosed by Ginsburg, et al. relates to whether or not software has been modified, as evidenced by the following excerpt of the Ginsburg, et al. patent at column 4, lines 17-24:

Referring back to FIG. 3, the live code is compared to the stored verification code contained in authentication ROM 310 by the authentication software running (in some embodiments) on CPU 305. If the live code matches (i.e., is identical to) the stored verification code for each and every file loaded into RAM 330, then use of game software and other related files is allowed. If one or more codes do not match, an

error condition is declared within CPU 305 and further game operation is halted.

There is no disclosure in the Ginsburg, et al. patent of the license recitations of claim 1, nor does the word "license" even appear in the Ginsburg, et al. patent.¹ Clearly, software that is authentic, i.e. identical to the original software, as disclosed in Ginsburg, et al. can be unlicensed, such as pirated software. Consequently, it is respectfully submitted that claim 1 is not anticipated by Ginsburg, et al. and that therefore the rejection of claim 1 is not proper.

Each of the other independent claims also contains multiple recitations relating to license data, and it is respectfully submitted that the rejection of the other independent claims is not proper for reasons similar to those noted above in connection with claim 1.

It is respectfully submitted that, since the rejections of the dependent claims are premised on improper rejections of the independent claims, the rejections of the dependent claims are also not proper.

Conclusion


In view of the foregoing, it is respectfully submitted that the above application is in condition for allowance. If there is any matter that the Examiner would like to discuss, the Examiner is invited to contact the undersigned representative at the telephone number set forth below.

Respectfully submitted,

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¹ Based on an electronic search of the word "license" in the Ginsburg, et al. patent on the Patent Office website.